

## LEGISLATIVE MINUTES

### MARLBORO TOWNSHIP COUNCIL MEETING

MARCH 25, 2004

The Marlboro Township Council held a regularly scheduled Council Meeting on March 25, 2004 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Mione opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regular meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 5, 2004; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

PRESENT: Councilman Burrows, Council Vice President Denkensohn, Councilwoman Morelli, Councilman Pernice and Council President Mione.

Also present were: Deputy Mayor Marty Karasick, Michael Gluck, Esq., Andrew Bayer, Esq., Acting Business Administrator Judith Tiernan, Municipal Clerk Alida DeGaeta, and Deputy Clerk Deborah Usalowicz.

The Clerk called the Roll.

Public Information Report - Public Information Director Susan Levine reported: NJDOT will be holding an open house Public Information Forum on March 29<sup>th</sup> from 4:00 - 8:00pm at the Recreation Center regarding the reconstruction of the intersection of Route 9 and 520. NJDEP will also be holding an open house Public Information Forum on April 20<sup>th</sup> from 2:00 - 8:00pm at Town Hall to address concerns from residents regarding the Imperial Oil site at Town Hall. On behalf of the Police Department, Ms. Levine asked that any resident who wishes to report suspicious activity requiring immediate assistance should call 1-888-536-1010. She

announced that the Marlboro Township police explorers will be painting house numbers curbside for \$10.00 to raise funds to attend the National Law Enforcement Explorer Training Conference in Atlanta, Georgia. Ms. Levine announced that on March 31<sup>st</sup> from 2:45pm - 5:45pm, the Marlboro Township Board of Education will be sponsoring a blood drive at the Marlboro Middle School and MTTV (Marlboro Township Television) is on the air on Channel 77).

Council Vice President Denkensohn moved that the minutes of February 12<sup>th</sup> and 26<sup>th</sup>, 2004 be approved. This motion was seconded by Councilwoman Morelli and the minutes as amended were passed on a roll call vote of 5 - 0.

Council President Mione opened the Public Hearing on Ordinance # 2004-1 (Bond Ordinance - Hawkins Road Park Improvements). As there was no one who wished to speak, the Public Hearing was closed. The following Resolution # 2004-89/Ord. # 2004-1 (Bond Ordinance - Hawkins Road Park Improvements) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Council President Mione and passed on a roll call vote of 5 - 0.

RESOLUTION # 2004-89

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2004-1

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY PROVIDING FOR IMPROVEMENTS TO HAWKINS ROAD PARK LOCATED IN THE TOWNSHIP AND APPROPRIATING \$59,765 THEREFOR FROM THE TOWNSHIP'S CAPITAL ACCOUNT -  
RESERVE-HAWKINS PARK-SCHMELZER

which was introduced on March 11, 2004, public hearing held March 25, 2004, be adopted on second and final reading this 25<sup>th</sup> day of March, 2004.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

ORDINANCE # 2004-1

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF  
MONMOUTH, NEW JERSEY PROVIDING FOR IMPROVEMENTS TO HAWKINS  
ROAD PARK LOCATED IN THE TOWNSHIP AND APPROPRIATING \$59,765  
THEREFOR FROM THE TOWNSHIP'S CAPITAL ACCOUNT -  
RESERVE-HAWKINS PARK-SCHMELZER

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP  
OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not  
less than two-thirds of all members thereof affirmatively  
concurring), AS FOLLOWS:

Section 1. The sum of \$59,765 is hereby appropriated  
from the Township of Marlboro, in the County of Monmouth,  
New Jersey (the "Township") Capital Account - Reserve -  
Hawkins Park - Schmelzer for the purpose of providing  
improvements to Hawkins Road Park located in the Township.

Section 2. The capital budget or temporary capital  
budget, as applicable, of the Township is hereby amended to  
conform with the provisions of this ordinance to the extent  
of any inconsistency herewith. In the event of any such  
inconsistency and amendment, the resolution in the form  
promulgated by the Local Finance Board showing full detail  
of the amended capital budget or temporary capital budget,  
as applicable, and capital program as approved by the  
Director of the Division of Local Government Services is on  
file with the Township Clerk and is available there for  
public inspection.

Section 3. After passage upon first reading of this  
Ordinance, the Clerk of the Township is hereby directed to  
publish the full text of the Ordinance, together with the  
notice set forth below entitled: "NOTICE OF PENDING  
ORDINANCE" (with appropriate completions, insertions and  
corrections), at least once in a newspaper qualified under  
N.J.S.A. 40A:2-19, at least seven days prior to the date  
set for public hearing and further consideration for final  
passage (which date shall be at least ten days after  
introduction and first reading). The Clerk is further  
directed to comply with the all provisions of N.J.S.A.  
40A:2-17(b) regarding postings, publications and the  
provision of copies of this Ordinance.

Section 4. After final adoption of this Ordinance,  
the Clerk is hereby directed to publish the full text of

this Ordinance, as finally adopted, together with the notice set forth below entitled: "NOTICE OF ADOPTION OF ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19.

Section 5. This Ordinance shall take effect as provided by law.

The following Res. # 2004-90/Ord. # 2004-2 (Amending Chapter 5 - Affordable Housing Remedies for Violations) was introduced by reference, offered by Councilwoman Morelli, seconded by Council President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-90

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2004-2

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 5  
"AFFORDABLE HOUSING," ARTICLE I "GENERAL PROVISIONS,"  
SECTION 5-4 "AFFORDABLE HOUSING AGENCY ESTABLISHED" AND  
SECTION 5-11 "RESPONSIBILITIES OF DEVELOPERS AND OWNERS;  
REMEDIES FOR VIOLATIONS" OF THE CODE OF THE  
TOWNSHIP OF MARLBORO

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 29, 2004 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2004-2

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 5  
"AFFORDABLE HOUSING," ARTICLE I "GENERAL PROVISIONS,"  
SECTION 5-4 "AFFORDABLE HOUSING AGENCY ESTABLISHED" AND  
SECTION 5-11 "RESPONSIBILITIES OF DEVELOPERS AND OWNERS;  
REMEDIES FOR VIOLATIONS"  
OF THE CODE OF THE TOWNSHIP OF MARLBORO.

WHEREAS, the purpose of Chapter 5 "Affordable Housing" of the Code of the Township of Marlboro (the "Code") is to assure that Township of Marlboro housing units designated for occupancy by low- and moderate-income households remain affordable to and occupied by low- and moderate-income households; and

WHEREAS, the Mayor and the Township Council have become aware that certain owners of low- and moderate-income units have been illegally selling and/or renting their units at prices above those permitted by Chapter 5 "Affordable Housing" of the Code; and

WHEREAS, the Township of Marlboro desires to amend Chapter 5 "Affordable Housing" of the Code to require owners of low- and moderate-income units to provide notice to the Township of Marlboro before selling or renting their unit; and

WHEREAS, the Township of Marlboro desires to amend Chapter 5 "Affordable Housing" of the Code to provide for monetary penalties and imprisonment should an owner of a low- and moderate-income unit violate any provision of Chapter 5 "Affordable Housing" of the Code or the Township of Marlboro Affordable Housing Plan.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 5 "Affordable Housing," Article I "General Provisions," Section 5-4 "Affordable Housing Agency Established" and Section 5-11 "Responsibilities of Developers and Owners; Remedies for Violations" of the Code be amended and supplemented as follows:

§ 5-4        Affordable Housing Agency Established.

Subsection D of Section 5-4, Powers and duties, is hereby amended and supplemented by adding a new subsection (13) to read as follows:

D.    Powers and duties.    The powers and duties of the Agency shall be as follows:

(1) - (12)        (Unchanged).

(13) To take enforcement action, as authorized by § 5-11C of this chapter, against any owner for violation of this chapter or the Affordable Housing Plan.

§ 5-11 Responsibilities of developers and owners; remedies for violations.

Subsection B of Section 5-11, Responsibilities of owners, is hereby amended and supplemented to add a new subsection (1), (2) and (3) to read as follows and to recodify the remaining subsections unchanged as (4) through (10):

B. Responsibilities or owners.

(1) Prior to reselling or renting his or her low- or moderate-income unit, the owner shall provide written proof to the Agency that the resale or rental has been approved by the authorized State agency.

(2) Unless otherwise exempt pursuant to this chapter, the owner shall only resell or rent his or her low- or moderate-income unit to a qualified purchaser or renter as determined by the authorized State agency.

(3) Unless otherwise exempt pursuant to this chapter, the owner shall be responsible for guaranteeing that the necessary documents are executed and filed at the closing of title or rental of a low- or moderate-income unit to assure that the unit remains affordable to and occupied by low- or moderate-income households.

(4) - (10) (Recodified).

§ 5-11 Responsibilities of developers and owners; remedies for violations.

Subsection C of Section 5-11, Violations of this chapter or Affordable Housing Plan, is hereby amended and supplemented to read in its entirety as follows:

C. Violation of this chapter or the Affordable Housing Plan. After providing written notice of a violation of this chapter and/or the Affordable Housing Plan to an owner of a low- or moderate-income unit and advising the owner of the penalties for such violations, the Agency may take the following action against the owner for any violation that remains uncured for a period of 60 days after service of the written notice:

(1) The Agency may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of this chapter and/or the Affordable Housing Plan. If the owner is found by the court to have violated any provision of this chapter and/or the Affordable Housing Plan, he or she shall be subject to one or more of the following penalties, at the discretion of the court:

(a) A fine of not more than \$1,250.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

(b) In the case of an owner who has resold his or her low- or moderate-income unit in violation of this chapter and/or the Affordable Housing Plan, payment into Township of Marlboro Housing Trust Fund of the difference between the unauthorized resale price and the maximum resale price allowed by this chapter;

(c) In the case of an owner who has rented his or her low- or moderate-income unit in violation of this chapter and/or the Affordable Housing

Plan, payment into the Township of Marlboro Housing Trust Fund of the difference between the unauthorized rental charge and the maximum rental charge allowed by this chapter; or

(d) In the case of an owner who has rented his or her low- or moderate-income unit in violation of this chapter and/or the Affordable Housing Plan, payment of an innocent tenant's reasonable relocation costs, as determined by the court; or

(2) The Agency may file a court action in the Superior Court seeking a judgment which would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- and moderate-income unit.

(a) Such judgment shall be enforceable, at the option of the Agency, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage and prior liens and the costs of the enforcement proceedings incurred by the Agency, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

(b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior liens upon the low- and



moderate-income unit. The excess, if any, shall be applied to reimburse the Agency for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the Agency in full as aforesaid, the violating owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the Agency in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the Agency for the owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the Agency for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the Agency. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the Agency, whether such balance shall be paid to the owner or forfeited to the Agency.

(c) Foreclosure by the Agency due to violation of this chapter and/or the Affordable Housing Plan shall not extinguish the restrictions of this chapter and the Affordable Housing Plan as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of this chapter and the Affordable Housing Plan. The owner determined to be in violation of the provisions of this

plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.

(d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the first purchase money mortgage and any prior liens, the Agency may acquire title to the low- and moderate-income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of this chapter and the Affordable Housing Plan. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.

(e) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the Agency shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the Agency, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the terms and provisions of this chapter and the Affordable Housing Plan.

(f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of this chapter and the Affordable Housing Plan until such time

as title is conveyed from the owner.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

Res. # 2004-91/Ord. # 2004-3 (Allowing Appeals to Governing Body of Zoning Board Decisions on Use Variances) was introduced by reference, offered by Councilwoman Morelli, seconded by Councilman Pernice and defeated on a roll call vote of 2 - 3 with Burrows, Denkensohn and Mione voting no.

The following Res. # 2004-92/Ord. # 2004-4 (Requiring Builders to Post Signs on Properties to be developed when submitting applications to Planning or Zoning Board) was introduced by reference, offered by Councilwoman Morelli, seconded by Council Vice President Denkensohn and passed on a roll call vote of 5 - 0 in favor.

#### RESOLUTION # 2004-92

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

#### ORDINANCE # 2004-4

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS," ARTICLE I "DEFINITIONS, PURPOSE AND INTERPRETATION", SECTION 84-4B "DEFINITIONS" AND ARTICLE II "LAND USE PROCEDURES", SECTION 84-11 "PUBLIC HEARING AND NOTICES"

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 29, 2004 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2004-4

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 84 "LAND USE DEVELOPMENT AND REGULATIONS," ARTICLE I "DEFINITIONS, PURPOSE AND INTERPRETATION", SECTION 84-4B "DEFINITIONS" AND ARTICLE II "LAND USE PROCEDURES", SECTION 84-11 "PUBLIC HEARING AND NOTICES"

WHEREAS, Chapter 84 "Land Use Development Regulations" of the Code of the Township of Marlboro currently requires public notice of a hearing on an application for development, unless otherwise exempt; and

WHEREAS, pursuant to Section 84-11 of the Code of the Township of Marlboro, such public notice must be given by publication in the official newspaper of the municipality and by giving notice to all owners of real property located within 200 feet in all directions of the property which is the subject of such hearing; and

WHEREAS, the Mayor and the Township Council believe it is in the best interest of the residents of the Township of Marlboro to amend Chapter 84, Land Use Development Regulations of the Code of the Township of Marlboro to increase the public notice requirements on an application for development by requiring the posting of a Notice Sign on the property which is the subject of an application for development and requiring that notice be given to all owners of real property located within 300 feet in all directions of the property which is the subject of the hearing.

NOW THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that Chapter 84 "Land Use Development and Regulations," Article I "Definitions, Purpose and Interpretation," Section 84-4B "Definitions" and Article II "Land Use Procedures," Section 84-11 "Public Hearing and Notices" of the Code of the Township of Marlboro be amended and supplemented as follows:

§ 84-4B     Definitions.

Subsection B of Section 84-4B is hereby amended and supplemented by adding the following definition thereto:

"Notice Sign" is a sign which is freestanding erected on property which is the subject of an application for development.

§ 84-11     Public Hearing and Notices.

Section 84-11A(3) is amended by substituting the following for the last sentence thereof:

"For purposes of this Chapter, the term "public notice" shall include a Notice Sign. Public notice shall be given as provided in this Section."

Section 84-11B(5) is amended to read as follows:

"All public notices (other than Notice Signs) shall state the date, time and place of the public hearing, the nature of the all the matters to be considered and an identification of the property proposed for development by street address, if any or by reference to lot and block numbers and the location and times at which any maps and documents are available for public inspection. Notice Signs required to be erected on the property which is subject of the application for development shall state the name of the applicant, the name of the public body from which the applicant is seeking approval, the phone number of the public body where a person may seek information as to the date and time of the public hearing on the application and a statement that this number may be called to obtain such information, a brief description of the nature of the approval sought including the number of proposed dwelling units, the type of units, e.g., single family homes, town homes, garden apartments, and in the case of non-residential uses, the nature of the proposed construction, e.g., warehouses, commercial use

and the proposed square footage of the construction."

Section 84-11B(6) is amended in its entirety to read as follows:

"The applicant shall be responsible for and shall bear the cost of providing the public notices (including Notice Signs) required by this Section. Public notices shall be given at least 10 days prior to the hearing date. Public notice (other than by Notice Sign) shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality. Notice Signs shall contain the information required in Section 84-11B.(5) and shall satisfy the following requirements: (a) The Notice Sign shall (i) be between thirty-two (32) square feet in area and sixty-four (64) square feet in area; (ii) face a public street abutting the property which is the subject of the application; and (iii) be located not more than thirty (30) feet from such street; (b) The lettering on the Notice Sign shall be of such a type face and size as to be clearly visible to motorists and pedestrians in or on, the abutting street; (c) The Notice Sign shall remain until the applicable public body shall grant or deny final approval or and the applicant shall withdraw the application; and (d) The Notice Sign shall comply with the provisions of this Chapter applicable to Signs to the extent not inconsistent with this Section. Failure by an applicant to provide a Notice Sign as required by this Section will constitute a violation of this Code subject to the penalties provided by Section 4.3 of the Code. "

Section 84-11B(7) is amended by inserting the words "(other than a Sign Notice)" after the word "chapter" in the first sentence thereof and by substituting the words "300 feet" for "200 feet" where it appears therein.

Section 84-11C.(2)and Section 84-11C(4) are each amended by substituting the words "300 feet" for "200 feet" where it appears therein.

Section 84-11C(6) is amended to read as follows:

"Public notices (other than Notice Signs) shall be given to owners of all real property, as shown on the current tax duplicate, located within 300 feet in all directions of the property which is the subject of such hearing. The notice shall be given by either serving a copy thereof on the property owner or mailing a copy thereof by certified mail to the property owner at his address as shown on said current tax duplicate; provided however, that such notice requirement shall be deemed satisfied as set forth in Section 84-11B(7)."

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions to adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

The following Res. # 2004-93/Ord. # 2004-5 (Amending Ord. # 2003-22 - Public Contracts Reform) was introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-93

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2004-5

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MARLBORO PROVIDING FOR PUBLIC CONTRACTING REFORM

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for final passage on April 29, 2004 at 8:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2004-5

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF  
MARLBORO PROVIDING FOR PUBLIC CONTRACTING REFORM

Be It Ordained by the Township Council of the Township of Marlboro:

Preamble

WHEREAS, professional business entities are exempt from public bidding requirements; and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities; and

WHEREAS, Marlboro Township adopted Ordinance #2003-22 which limits political contributions professional business entitles may make to any Marlboro Township candidate or to any Marlboro Township Party Committee within one calendar year immediately proceeding the date of the contract



between the professional business entity and the Township;  
and

WHEREAS, the Township seeks to tighten a professional business entities ability to make political contributions and receive a professional contract with the Township by including limitations on political contributions to the Monmouth County Party Committee, or to any political action committee that is organized for the purpose of promoting or supporting Township candidates or Township officeholders and political contributions by immediate family members of the professional business entity; and

NOW THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Marlboro that the policy of the Township of Marlboro will be to set maximum amounts professional business entities may contribute politically and beyond which they become ineligible to receive a public professional service contract from Marlboro Township.

#### SECTION 1

##### Prohibition on Awarding Public Contracts to Certain Contributors

(a) Any other provisions of law to the contrary notwithstanding, the Municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure services from any professional business entity if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to (i) a campaign committee of any Marlboro Township candidate or holder of the public office within the Township having ultimate responsibility for the award of the contract, or to (ii) any Marlboro Township or Monmouth County Party Committee, or to (iii) any political action committee that is organized for the purpose of promoting or supporting Township candidates or Township officeholders ("hereinafter referred to as "PAC"), in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement.

(b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement

with the Municipality or any department or agency thereof or of its independent authorities for the rendition of professional services shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any (i) Marlboro Township candidate or holder of the public office having ultimate responsibility for the award of the contract, or to (ii) any Marlboro Township or Monmouth County Party Committee, or to (iii) any PAC between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) For purposes of this ordinance, a "professional business entity" seeking a public contract means an individual including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

(d) Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$400 each for any purpose to any candidate, for mayor or council, or \$500 to the Marlboro Township or Monmouth County Party Committee or to any PAC without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Marlboro Township candidates and officeholders with ultimate responsibility for the award of the contract, and all Marlboro Township and Monmouth County political parties and PACs combined, without violating subsection (a) of this section.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

- (1) The Marlboro Township Council, if the contract requires approval or appropriation from the Council.
- (2) The Mayor of Marlboro Township, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor; or

## SECTION 2

### Contributions Made Prior to the Effective Date

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any Municipal candidate for Mayor or Council, or Township or Monmouth County Party Committee or PAC shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this ordinance.

## SECTION 3

### Contribution Statement by Professional Business Entity

(a) Prior to awarding any contract or agreement to procure services with any professional business entity, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of Section 1 of the Act.

(b) The professional business entity shall have a continuing duty to report any violations of this Section that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

## SECTION 4

### Return of Excess Contributions

A professional business entity, or Township candidate or officeholder or Township or Monmouth County Party Committee or PAC may cure a violation of Section 1 of this Act, if, within thirty (30) days after the general election, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or officeholder, Township or Monmouth County Political Party, or PAC.

## SECTION 5

### Penalty

(a) All Marlboro Township professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity as defined in Section 1(c) to violate Section 1(b) or to knowingly conceal or misrepresent contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity as defined in Section 1(c) and (d) who knowingly fails to reveal a contribution made in violation of the Act, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Marlboro Township contracts for a period of four calendar years from the date of the violation.

## SECTION 6

### Severability

If any provision of this law, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this law are severable.

## SECTION 7

### Effective Date

This Act shall take effect upon passage and publication in accordance with applicable law.

The following Resolution # 2004-94 (Temporary Budget) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor.

### RESOLUTION # 2004-94

#### EMERGENCY TEMPORARY RESOLUTION PRIOR TO ADOPTION OF THE BUDGET

WHEREAS, an emergent condition has arisen with respect to appropriation balances remaining in many of the CY 2004 temporary budget appropriations due to delays in the CY 2004 budget process; and

WHEREAS, N.J.S.A. 40A:4-20 provides for the creation of emergency temporary appropriations for the purposes above mentioned; and

WHEREAS, the total emergency temporary resolutions adopted in the year CY 2003 pursuant to the provisions of N.J.C.A. 40A 4-20 (Chapter 96, P.L.1951 as amended) including this resolution total \$16,398,481.19 - Current; \$235,212.50 - Swim;

NOW THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S.A. 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for each of the accounts listed on the attached.
2. That each said emergency temporary appropriation has been provided for in the CY 2004 budget under the same title as appropriated above.
3. That one certified copy of this resolution be filed with the Director of Local Government Services.

**\* COPY of attached material to be found in 2004 Resolution Book in Clerk's office.**

The following Resolution # 2004-70 (Award of Contract - Hawkins Road Park (mtg. 2/26) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-70

A RESOLUTION AUTHORIZING AWARD OF CONTRACT TO LUCAS BROTHERS, INC. FOR THE PROVISION OF VARIOUS PRODUCTS AND SERVICES IN CONNECTION WITH THE HAWKINS ROAD PARK RENOVATION

WHEREAS, the Township of Marlboro has authorized the acceptance of bids for the provision of various products and services in connection with the Hawkins Road Park Renovation; and

WHEREAS the four (4) bids received were as follows:

1. Lucas Brothers, Inc., Morganville, New Jersey in the amount of \$442,134.00;
2. Flanagan's, Inc. Hillsborough, New Jersey in the amount of \$556,554.05;
3. Highway Safety Systems, Inc., Hammonton, New Jersey in the amount of \$588,386.00; and
4. Earle Asphalt Company, Farmingdale, New Jersey in the amount of \$649,857.00; and

WHEREAS, the Administration and the Recreation and Parks Commission have reviewed the bids received and recommend that the contract be awarded to Lucas Brothers, Inc. as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Lucas Brothers, Inc., for the provision of the aforesaid products and services.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the provision of various products and services in connection with the Hawkins Road Park Renovation be and hereby is awarded to Lucas Brothers, Inc. and that the Mayor is authorized to execute a contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Lucas Brothers, Inc. for the provision of said products and services in the amount of \$442,134.00, and in accordance with the bid proposal submitted by Lucas Brothers, Inc., which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lucas Brothers, Inc.
- b. Township Engineer
- c. Superintendent of Recreation
- d. Superintendent of Public Works
- e. Township Office of Public Information
- f. Township Administrator
- g. Township Chief Financial Officer
- h. Gluck, Walrath and Lanciano, LLP.

The following Resolution # 2004-95 (Awarding Professional Service Contract - Ulrich Steinberg) was introduced by reference, offered by Councilman Burrows, seconded by Council President Mione and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-95

A RESOLUTION AUTHORIZING THE EXECUTION OF A  
CONTRACT FOR FINANCIAL CONSULTING SERVICES  
BETWEEN THE TOWNSHIP OF MARLBORO  
AND ULRICH STEINBERG

WHEREAS, by Resolution #2004-81, Judith Tiernan, was appointed Acting Business Administrator of the Township of Marlboro until such time as a permanent Business Administrator is selected and appointed by the Mayor; and

WHEREAS, Ms. Tiernan continues to also hold the position of Chief Financial Officer of the Township of Marlboro; and

WHEREAS, there exists a need for the Township of Marlboro to employ a financial consultant to provide assistance in the Finance Department during the time that Ms. Tiernan is serving as the Acting Business Administrator and the Chief Financial Officer; and

WHEREAS, the Mayor has deemed it necessary and in the best interest of the municipality to hire Ulrich Steinberg to provide financial consulting services to the Finance Department for a total amount not to exceed \$10,000.00; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to entered into a contract, in a form legally acceptable to the Township Attorney, between Ulrich Steinberg and the Township of Marlboro for the provision of financial consulting services to the Finance Department for a total amount not to exceed \$10,000.00. Mr. Steinberg shall perform only those services authorized by the Mayor or the Chief Financial Officer; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Ulrich Steinberg
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck, Walrath and Lanciano, LLP.



The following Resolution # 2004-96 (Award of Contract - Birdsall Engineering - COAH) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Burrows and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-96

A RESOLUTION AUTHORIZING THE EXECUTION OF A  
CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND  
BIRDSALL ENGINEERING, INC. FOR THE PROVISION OF  
SPECIAL PROJECT ENGINEERING/PROFESSIONAL PLANNER  
SERVICES RELATED TO THE TOWNSHIP OF MARLBORO'S  
AFFORDABLE HOUSING FAIR SHARE OBLIGATION

WHEREAS, as part of the process of fulfilling the Township of Marlboro's outstanding affordable housing fair share obligation, the Township is required to submit an Amended Fair Share Plan and Housing Element to the New Jersey Council on Affordable Housing and to obtain approval of that amended plan, as well as respond to the Council on Affordable Housing's comments and concerns regarding the Township's previous Fair Share Plan and Housing Element; and

WHEREAS, there exists a need for the Township of Marlboro to employ a special project engineer/professional planner to prepare the Amended Fair Share Plan and Housing Element and to perform such other services deemed necessary to satisfy the Township's affordable housing fair share obligation; and

WHEREAS, Birdsall Engineering, Inc. has submitted the attached proposal (the "Proposal"), which is made a part hereof, to the Township for the provision of said services in an amount not to exceed \$50,000.00; and

WHEREAS, the Mayor and the Township Council have deemed it necessary and in the best interest of the municipality to hire Birdsall Engineering, Inc. to provide the aforementioned special project engineering/professional planner services; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to entered into a contract, in a form legally acceptable to the Township Attorney, between Birdsall Engineering, Inc. and the Township of Marlboro for the provision of special project engineering/professional planner services in connection with satisfying the Township's affordable housing fair share obligation in an amount not to exceed \$50,000.00 and in accordance with the Proposal attached hereto; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. Gluck, Walrath and Lanciano, LLP.

The following Resolution # 2004-97 (Award of Bid - Janitorial Services) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-97

A RESOLUTION AUTHORIZING AWARD OF CONTRACT  
TO BAILEY'S SQUARE JANITORIAL SERVICES FOR THE  
PROVISION OF JANITORIAL SERVICES AND TILE WAXING  
SERVICES FOR THE TOWNSHIP OF MARLBORO POLICE  
STATION AND THE ZONING AND BUILDING DEPARTMENTS

WHEREAS, the Township of Marlboro has authorized the acceptance of bids to provide janitorial services and tile waxing services for the Township of Marlboro Police Station and Zoning and Building Departments under a one-year contract;

WHEREAS, the three (3) bids received were as follows:

1. Bailey's Square Janitorial Services, Freehold, New Jersey, in the amount of \$23,400.00 for janitorial services and \$1,500.00 for tile waxing services;
2. Andrews & Company, Newton, New Jersey, in the amount of \$25,850.00 for janitorial services and \$2,400.00 for tile waxing services; and
3. Urucorp Maintenance & Contractor, Inc., Wharton, New Jersey, in the amount of \$39,900.00 for janitorial services and \$2,150.00 for tile waxing services; and

WHEREAS, the Administration and the Department of Public Works have reviewed the bids received and recommend that the contract be awarded to Bailey's Square Janitorial Services as the lowest qualified bidder; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to award the contract to the lowest qualified bidder, Bailey's Square Janitorial Services, for the provision of the aforesaid services.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the contract for the provision of janitorial services and tile waxing services be and hereby is awarded to Bailey's Square Janitorial Services and that the Mayor is authorized to execute a one-year contract, in a form legally acceptable to the Township Attorney, between the Township of Marlboro and Bailey's Square Janitorial Services for the provision of janitorial services and tile waxing services to the Township of Marlboro Police Station and the Zoning and Building Department in the amount of \$24,900.00, and in accordance with the bid proposal submitted by Bailey's Square Janitorial Services, which is on file with the Township; and

BE IT FURTHER RESOLVED that the Chief Financial Officer is directed to file a Certificate of Availability

of sufficient funds for this contract and to attach same to this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- e. Bailey's Square Janitorial Services
- b. Superintendent of Public Works
- c. Township Office of Public Information
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Gluck, Walrath and Lanciano, LLP.

The following Resolution # 2004-98 (Authorizing Agreement with Monmouth County LINCS Agency) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilwoman Morelli and passed on a roll call vote of 5 - 0 in favor.

RESOLUTION # 2004-98

A RESOLUTION AUTHORIZING THE EXECUTION OF AN  
AGREEMENT BETWEEN THE TOWNSHIP OF MARLBORO AND  
THE MONMOUTH COUNTY LINCS AGENCY ACKNOWLEDGING  
THE DESIGNATION OF THE MARLBORO RECREATION  
CENTER AS A REGIONAL MASS  
PROPHYLAXIS/VACCINATION SITE IN THE EVENT OF A  
BIOTERRORISM OR NATURAL OCCURRING EMERGENCY

WHEREAS, the Monmouth County Health Department has been designated as the lead health agency for Bioterrorism Preparedness by the New Jersey Department of Health and Senior Services (the "Monmouth County LINCS Agency"); and

WHEREAS, the Monmouth County LINCS Agency is required to select facilities for mass prophylaxis/vaccination distribution to Monmouth County residents in a declared state of emergency; and

WHEREAS, the Monmouth County LINCS Agency has selected the Marlboro Recreation Center as a regional mass prophylaxis/vaccination site and requested that the Township of Marlboro execute the attached agreement (the "Agreement"), which is made a part hereof, with the Monmouth County LINCS Agency acknowledging said designation; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to execute the Agreement with the Monmouth County LINCS Agency acknowledging the designation of the Marlboro Recreation Center as a regional mass prophylaxis/vaccination site.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor, Chief of Police and the Director of the Office of Emergency Management be and hereby are authorized to execute the attached Agreement with the Monmouth County LINCS Agency acknowledging the designation of the Marlboro Recreation Center as a regional mass prophylaxis/vaccination site; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Monmouth County LINCS Agency
- b. Chief of Police
- c. Director of the Office of Emergency Management
- d. Township Office of Public Information
- e. Township Administrator
- f. Gluck, Walrath and Lanciano, LLP

The following Resolution # 2004-101 (Bond Reduction Commerce Bank) was introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilman Pernice and passed on a roll call vote of 5 - 0 in favor. Township Engineer William Schultz explained.

RESOLUTION # 2004-101

A RESOLUTION AUTHORIZING THE REDUCTION OF THE  
LETTER OF CREDIT AND CASH BOND FOR THE SITE KNOWN  
AS THE COMMERCE BANK SITE

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request from Commerce Bank/Shore NA for the reduction of the amount of the Letter of Credit and the amount of the Cash Bond for the site known as the Commerce Bank Site; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report

from the Township Engineer dated March 5, 2004, together with a copy of the inspection report dated January 8, 2004 (collectively, the "Engineer's Report"), copies of which are attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends a partial reduction in the current Letter of Credit and Cash Bond amounts being held by the Township, subject to the payment of all fees required by the Developer's Agreement and the receipt of an as-built drawing reflecting all improvements installed to date; and

WHEREAS, the Township Council now desires to take the following action regarding the aforesaid Letter of Credit and Cash Bond.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Letter of Credit and Cash Bond for the Commerce Bank site shall be reduced as follows:

The Letter of Credit, in the original and present amount of \$355,000.00, shall be reduced by \$248,500.00 (70%), so that the amount to remain shall be \$106,500.00(30%); and

The Cash Bond, in the original and present amount of \$39,400.00, shall be reduced by \$27,580.00 (70%), so that the amount to remain shall be \$11,820.00 (30%); and

BE IT FURTHER RESOLVED, that the above reductions shall be subject to the payment of all fees required by the Developer's Agreement and the receipt of an as-built drawing reflecting all improvements installed to date; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Commerce Bank/Shore NA
- b. Township Engineer
- c. Chief Financial Officer
- d. Gluck, Walrath & Lanciano, LLP

The following Resolutions were introduced by reference, offered by Council Vice President Denkensohn, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor: Absent: Burrows. Res # 2004-102 (Redemption Tax Sale Certs. - Various, Res. # 2004-103 (Refunds for Overpayments - Various, Res. # 2004-104 (Refunds to WMUA - Various), Res. # 2004-105 (Refunds for First Quarter Taxes - Various), Res. # 2004-106 (Charges for Tax Sale), Res. # 2004-107 (Authorizing Sale for Tax Sale Cert. 91-47) and Res. # 2004-108 (Authorizing Sale of Tax Sale Cert. 91-85).

RESOLUTION # 2004-102

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$117,944.74 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$117,944.74 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIEN HOLDER</u>	<u>AMOUNT</u>
01-23	352/9	Betty Simon, Trustee	\$33,855.56
94 Conover Road		P.O. Box 238 Northfield, NJ 08225-0238	
01-26	364/3	American Bankers Life	34,252.35
1 Oak Lane		Assurance Co. of Florida 1526 York Road Lutherville, MD 21093	
02-10	160.03/16 &	Betty Simon, Trustee	34,562.89
	16QFARM	P.O. Box 238	
94 Conover Road		Northfield, NJ 08225-0238	
03-11	157/35	Richard Simon, Trustee	14,621.12
94 Conover Road		P.O. Box 238 Northfield, NJ 08225-0238	

03-55	345/7	American Tax Funding, LLC	652.82
13 McDonald Road		Attn: Martha Moseley	
		P.O. Box 862658	
		Orlando, FL 32886-2658	
TOTAL:			<u>\$117,944.74</u>

RESOLUTION # 2004-103

WHEREAS, the attached list in the amount of \$7,924.76 known as Schedule "A", is comprised of amounts representing overpayments for 2004 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
176	7 C0905	Oleg & Olga Shubayev	\$ 955.11
905	Crimson Court	905 Crimson Court	
		Morganville, NJ 07751	
178	2 C0411	Citimortgage	748.38
411	Yorkshire Place	Attn: Tax Dept.	
		95 Methodist Hill Drive	
		Rochester, NY 14623	
		Re: Darlene & John Tomasiello	
312	69 ADDED	Paul A. & Mary Petto	67.99
6	Kathy Court	6 Kathy Court	
		Marlboro, NJ 07746	
312	121	Jeffrey & Margaret Clemente	1,500.08
27	St. Lawrence Way	27 St. Lawrence Way	
		Marlboro, NJ 07746	
360.02	18.18	Toll NJ III, LP	352.44
16	Clymer Court	Attn: Michael Maurer	
		Castle Point	
		3103 Philmont Avenue	
		Huntington Valley, PA 19007	



400	10	Washington Mutual	2,207.63
20 Manor Drive		Attn: Tax Dept.-Refunds	
		2210 Enterprise Drive	
		Florence, SC 29501	
		(Payment Meant for other	
		Municipality)	
408	2	ABN AMRO Mortgage Co.	2,093.13
2 Steeplechase Dr.		Attn: Tax Dept.	
		4242 N. Harlem Avenue	
		Norridge, IL 60706	
		(Payment Meant for other	
		Municipality)	
TOTAL:			<u>\$7,924.76</u>

RESOLUTION # 2004-104

WHEREAS, the attached list, known as Schedule "A", is comprised of amounts representing payment for 2004 first quarter taxes based upon the preliminary bills, and,

WHEREAS, these Blocks and Lots no longer appear on the current tax rolls,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amount which totals \$9,648.28 to the respective taxpayers.

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
151	12.01	Richard Guth	\$ 649.26
Route 79		385 Route 79	
		Morganville, NJ 07751	
175	29	Marlboro Route 9 & 520 Dev. Co	1,237.67
20 Route 520		69 Century Lane	
		Clifton, NJ 07014	
175	30	Marlboro Route 9 & 520 Dev. Co	1,397.46
22 Route 520		69 Century Lane	
		Clifton, NJ 07014	

175	32	Marlboro Route 9 & 520 Dev. Co	1,242.19
26	Route 520	69 Century Lane Clifton, NJ 07014	
175	33	Marlboro Route 9 & 520 Dev. Co	1,242.19
28	Route 520	69 Century Lane Clifton, NJ 07014	
176	35	Commerce Bank, NA	1,594.05
46	Route 520	1701 Route 70 East Cherry Hill, NJ 08034-5400	
360.02	18.81	K. Hovnanian	364.07
	Rutledge Road	110 Fieldcrest Avenue Edison, NJ 08818	
364	41 QFARM	Annabelle Wacyra	42.94
152	Dutch Lane Rd.	c/o E. Pratola 527 Salem Way Smithville, NJ 08205-6619	
412	169	WE 2 Ryan Road LLC	1,878.45
	Route 79 & Ryan Rd.	150 Baker Avenue Ext. 303 Concord, MA 01742	

---

TOTAL: \$9,648.28

RESOLUTION # 2004-105

WHEREAS, current sewer charges totaling \$411.01 have been paid by the lienholder of the Tax Sale certificates as per Schedule "A",

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the above-mentioned sewer charges in the amount of \$411.01 be refunded to the Western Monmouth Utilities Authority.

SCHEDULE "A"

<u>CERT#</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
TSC#03-28	312/173	Crusader Servicing Corp.	\$ 81.57
10	Jean Court		
TSC#03-33	393/20	Crusader Servicing Corp.	83.42
1	Woodland Terrace		

TSC#03-54	305/190	American Tax Funding	81.60
11 Regina Road			
TSC#02-13	184/53	Betty Simon, Trustee LLC	82.80
9 Eisenhower Circle			
TSC#02-28	120.02/30	Betty Simon, Trustee LLC	81.62
144 Bramble Drive			
TOTAL:			\$ 411.01

RESOLUTION # 2004-106

WHEREAS, the Township of Marlboro will hold a Tax Sale on April 22, 2004; and,

WHEREAS, in accordance with N.J.S.A. 54:5 et seq, the Township of Marlboro is entitled to recover costs in connection with the tax sale including, but not limited to, advertising costs which may be estimated; and,

WHEREAS, the Township wishes to assess the cost of processing and administering all phases of the Tax Sale process against only the taxpayers who are delinquent and are thereby causing the incurrence of said expenses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that, Shirley Giaquinto, Tax Collector, be and hereby is authorized and directed to charge and collect a fee of 2% per line item of the amounts to be sold at Tax Sale, minimum \$15.00, maximum \$100.00.

RESOLUTION # 2004-107

RESOLUTION AUTHORIZING THE SALE OF TAX SALE  
CERTIFICATE NO. 91-47

WHEREAS, the Township of Marlboro is the holder of Tax Sale Certificate No. 91-47, dated October 25, 1991, and by virtue of N.J.S.A. 54:5-34; and

WHEREAS, the said Tax Sale Certificate relates to the property known and designated as Block 157, Lot 13 (owner of record: Hampton Development Corp., Inc.), and is recorded in the

Office of Monmouth County Clerk's in Book MB-5019 at Page 0056;  
and

WHEREAS, N.J.S.A. 54:5-113, et. Seq, authorizes the Township to sell a municipally held Tax Sale Certificate for the original amount thereof together with subsequent liens, including taxes, interest and costs thereon, at private sale by assignment; and

WHEREAS, it is deemed financially beneficial to and in the best interests of the Township to sell the aforesaid Tax Sale Certificate as authorized by N.J.S.A. 54:5-113; and

WHEREAS, prior to the passage of this Resolution, the Township has undertaken all necessary notice requirements pursuant to N.J.S.A. 54:5-114.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That it does hereby authorize the private sale by assignment of Tax Sale Certificate No. 91-47 to Vito Cardinale, for the amount of \$105,966.10 (see attached for breakdown), which sum includes the amount of the original Tax Sale Certificate together with all subsequent liens, including taxes, interest and costs thereon, as provided for and permitted by N.J.S.A. 54:5-113.

2. That the appropriate Township Officials are hereby authorized and empowered to make, execute and deliver any and all assignment forms or other legal documents which may be necessary or desired to effectuate the said assignment permitted by this Resolution, including the recording of any and all relevant documents with the Monmouth County Clerk's Office.

3. That the assignment shall be subject to and conditioned upon any approval(s) necessary by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs pursuant to N.J.S.A., 54:5-113.1.

4. That a certified copy of this Resolution shall be provided to each of the following:

- a. Vito Cardinale
- b. Hampton Development Corp, Inc.  
P.O. Box 8159  
208 Maple Avenue  
Red Bank, NJ 07701
- c. Shirley Giaquinto, Tax Collector
- d. Township Attorney

RESOLUTION # 2004-108

RESOLUTION AUTHORIZING THE SALE OF TAX SALE  
CERTIFICATE NO. 91-85

WHEREAS, the Township of Marlboro is the holder of Tax Sale Certificate No. 91-85, dated October 25, 1991, and by virtue of N.J.S.A. 54:5-34; and

WHEREAS, the said Tax Sale Certificate relates to the property known and designated as Block 420.01, Lot 4 (owner of record: Hampton Development Corp., Inc.), and is recorded in the Office of Monmouth County Clerk's in Book MB-5019 at Page 0074; and

WHEREAS, N.J.S.A. 54:5-113, et. Seq, authorizes the Township to sell a municipally held Tax Sale Certificate for the original amount thereof together with subsequent liens, including taxes, interest and costs thereon, at private sale by assignment; and

WHEREAS, it is deemed financially beneficial to and in the best interests of the Township to sell the aforesaid Tax Sale Certificate as authorized by N.J.S.A. 54:5-113; and

WHEREAS, prior to the passage of this Resolution, the Township has undertaken all necessary notice requirements pursuant to N.J.S.A. 54:5-114.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro as follows:

1. That it does hereby authorize the private sale by assignment of Tax Sale Certificate No. 91-85 to Grant Norman & Rosemarie Kenny, for the amount of \$7,765.86 (see attached for breakdown), which sum includes the amount of the original Tax Sale Certificate together with all subsequent liens, including taxes, interest and costs thereon, as provided for and permitted by N.J.S.A. 54:5-113.

2. That the appropriate Township Officials are hereby authorized and empowered to make, execute and deliver any and all assignment forms or other legal documents which may be necessary or desired to effectuate the said assignment permitted by this Resolution, including the recording of any and all relevant documents with the Monmouth County Clerk's Office.

3. That the assignment shall be subject to and conditioned upon any approval(s) necessary by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs pursuant to N.J.S.A., 54:5-113.1.

4. That a certified copy of this Resolution shall be provided to each of the following:

- a. Grant Norman & Rosemarie Kenny  
Hampton Development Corp, Inc.  
P.O. Box 8159  
208 Maple Avenue  
Red Bank, NJ 07701
- b. Shirley Giaquinto, Tax Collector
- c. Township Attorney

The following Resolution # 2004-111 (Special Council Meeting - Budget Agreement - March 30, 2004 - 8PM) was introduced by reference, offered by Councilwoman Morelli, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor. Absent: Denkensohn.

RESOLUTION # 2004-111

BE IT RESOLVED by the Marlboro Township Council that a "Special" Council Meeting will be held on March 29, 2004 at 8:00 PM at the Marlboro Municipal Complex (New Caucus Room), 1979 Township Drive, Marlboro, N. J. 07746. The purpose of the special meeting is to hold budget discussions. Citizen's Voice will be limited to 15 minutes. It is anticipated that no action will be taken. Personnel matters will be discussed in executive session.

At 10:50PM, Council Vice President Denkensohn moved that the meeting go into executive session for reason of discussing personnel and contract negotiations. This was seconded by Councilwoman Morelli, and as there was no objection, the Clerk was asked to cast one ballot.

RESOLUTION # 2004-109

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 25th day of March, 2004 to go into executive session for the purpose of discussing those items that are particularly exempted

from the Open Public Meetings Act, namely, acquisition of property, contract negotiations and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 60 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 11:50 PM, Councilwoman Morelli moved that the executive session be opened. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Denkensohn).

The following Resolutions #2004-99 (Bond Release Marlboro Summit - Section 1) and Res. #2004-100 (Bond Release Marlboro Summit - Section 2) were introduced by reference, offered by Councilman Pernice, seconded by Councilwoman Morelli and defeated on a roll call vote of 0 - 4 (Absent: Denkensohn.)

#### RESOLUTION #2004-99

A RESOLUTION AUTHORIZING THE RELEASE OF THE PERFORMANCE BOND AND CASH BOND FOR THE PUBLIC IMPROVEMENTS TO THE DEVELOPMENT KNOWN AS MARLBORO SUMMIT - PHASE I

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request from Marlboro Summit, LLC for the release of the Performance Bond and Cash Bond being held by the Township to guarantee the public improvements to the development known as Marlboro Summit - Phase I (the "Property"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated February 9, 2004 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends the release of the Performance Bond and Cash Bond being held by the Township, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of

all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$131,932.65; and

WHEREAS, the Township Council received and considered objections to the release of the aforementioned bonds; and

WHEREAS, the Township Council now desires to take the following action regarding the aforesaid Performance Bond and Cash Bond.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond posted for the Property shall each be released in their entirety, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$131,932.65; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Marlboro Summit, LLC
- b. Frontier Insurance Company
- c. Sovereign Bank
- d. Township Engineer
- e. Chief Financial Officer
- f. Gluck, Walrath & Lanciano, LLP.

ADDENDUM TO RESOLUTION #2004-99

AN ADDENDUM TO RESOLUTION #2004-99 SETTING FORTH  
THE BASIS UPON WHICH THE TOWNSHIP COUNCIL  
REJECTED THE TOWNSHIP ENGINEER'S REPORT  
RECOMMENDING THE RELEASE OF THE PERFORMANCE BOND  
AND CASH BOND FOR THE PUBLIC IMPROVEMENTS TO THE  
DEVELOPMENT KNOWN AS MARLBORO SUMMIT -- PHASE I

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Marlboro



Summit, LLC for the release of the Performance Bond and Cash Bond being held by the Township to guarantee the public improvements to the development known as Marlboro Summit - Phase I (the "Property"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro received and reviewed a report from the Township Engineer dated February 9, 2004 (the "Engineer's Report"); and

WHEREAS, the Engineer's Report recommends the release of the Performance Bond and Cash Bond being held by the Township, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$131,932.65;

WHEREAS, prior to and during the March 25, 2004 public hearing, the Township Council received and considered evidence submitted in opposition to the release of the aforementioned bonds, including the following, which shall be collectively referred to hereinafter as the "Evidence":

1. Oral and written statements from residents of Marlboro Summit describing the water drainage and flooding problems in the development;

2. Pictures of properties located in Marlboro Summit showing significant water drainage and flooding problems;

3. A video showing significant water drainage and flooding problems in the development; and

4. A Limited Structural Engineering Inspection Report from Apex Group, Inc. dated August 19, 2003 and a supplemental letter from Apex Group, Inc. dated February 24, 2004, wherein the Apex Group, Inc. concluded as follows with respect to the property located at 63 Crescent Court, Marlboro, New Jersey and the related surrounding properties in Marlboro Summit:

- a. The grading remains grossly deficient rendering the lot un-usable for any good planning use;

- b. The builder's attempts to re-grade in this area have had little, if any, positive impact on this property;
- c. The run off, streaming across several lots onto 63 Crescent Court, can only be corrected by the installation of a second catch basin at the intersection of 65 Crescent and 67 Crescent, along with a new branch storm drain connecting this catch basin to the existing main and regrading of the lots so that run off from one lot does not flow to the other; and
- d. "That the builder may have made 'significant efforts' to resolve the homeowner issues is not enough. The lots still have unresolved drainage & grading issues, both bondable items, and thus the bond should not have been approved for release. Simply constructing a development according to approved plans is not enough since the approved plans always call for some modifications in field to suit field conditions. And, in this case, there are issues that call for the modification of the approved plans"; and

WHEREAS, at the March 25, 2004 public hearing, the Township Council rejected Resolution #2004-99 authorizing the release of the Performance Bond and Cash Bond for the Property and detailed on the record that it was rejecting said Resolution based upon the Evidence referenced above; and

WHEREAS, by rejecting Resolution #2004-99, the Township Council also rejected the Engineer's Report; and

WHEREAS, this Addendum to Resolution #2004-99 is incorporated into and made a part of Resolution #2004-99.

RESOLUTION #2004-100

A RESOLUTION AUTHORIZING THE RELEASE OF THE  
PERFORMANCE BOND AND CASH BOND FOR THE PUBLIC  
IMPROVEMENTS TO THE DEVELOPMENT KNOWN AS MARLBORO  
SUMMIT - PHASE II

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro has received a request from Marlboro Summit, LLC for the release of the Performance Bond and Cash Bond being held by the Township to guarantee the public improvements to the development known as Marlboro Summit - Phase II (the "Property"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated February 9, 2004 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends the release of the Performance Bond and Cash Bond being held by the Township, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$122,231.18; and

WHEREAS, the Township Council received and considered objections to the release of the aforementioned bonds; and

WHEREAS, the Township Council now desires to take the following action regarding the aforesaid Performance Bond and Cash Bond.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond and Cash Bond posted for the Property shall each be released in their entirety, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$122,231.18; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Marlboro Summit, LLC
- b. Greenwich Insurance Company
- c. Sovereign Bank
- d. Township Engineer
- e. Chief Financial Officer
- f. Gluck, Walrath & Lanciano, LLP.

ADDENDUM TO RESOLUTION #2004-100

AN ADDENDUM TO RESOLUTION #2004-100 SETTING FORTH  
THE BASIS UPON WHICH THE TOWNSHIP COUNCIL  
REJECTED THE TOWNSHIP ENGINEER'S REPORT  
RECOMMENDING THE RELEASE OF THE PERFORMANCE BOND  
AND CASH BOND FOR THE PUBLIC IMPROVEMENTS TO THE  
DEVELOPMENT KNOWN AS MARLBORO SUMMIT -- PHASE II

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request from Marlboro Summit, LLC for the release of the Performance Bond and Cash Bond being held by the Township to guarantee the public improvements to the development known as Marlboro Summit - Phase II (the "Property"); and

WHEREAS, the Mayor and Township Council of the Township of Marlboro received and reviewed a report from the Township Engineer dated February 9, 2004 (the "Engineer's Report"); and

WHEREAS, the Engineer's Report recommends the release of the Performance Bond and Cash Bond being held by the Township, subject to (i) the receipt of an as-built drawing acceptable to the inspecting engineer; (ii) the payment of all fees required by the Developer's Agreement; (iii) issuance of a certification from the Township Tax Collector that all taxes due that office are paid; and (iv) receipt of a two-year, 15% maintenance bond in the amount of \$122,231.18;

WHEREAS, prior to and during the March 25, 2004 public hearing, the Township Council received and considered evidence submitted in opposition to the release of the

aforementioned bonds, including the following, which shall be collectively referred to hereinafter as the "Evidence":

1. Oral and written statements from residents of Marlboro Summit describing the water drainage and flooding problems in the development;

2. Pictures of properties located in Marlboro Summit showing significant water drainage and flooding problems;

3. A video showing significant water drainage and flooding problems in the development; and

4. A Limited Structural Engineering Inspection Report from Apex Group, Inc. dated August 19, 2003 and a supplemental letter from Apex Group, Inc. dated February 24, 2004, copies of which are attached hereto and made a part hereof, wherein the Apex Group, Inc. concluded as follows with respect to the property located at 63 Crescent Court, Marlboro, New Jersey and the related surrounding properties in Marlboro Summit:

- a. The grading remains grossly deficient rendering the lot un-usable for any good planning use;
- b. The builder's attempts to re-grade in this area have had little, if any, positive impact on this property;
- c. The run off, streaming across several lots onto 63 Crescent Court, can only be corrected by the installation of a second catch basin at the intersection of 65 Crescent and 67 Crescent, along with a new branch storm drain connecting this catch basin to the existing main and regrading of the lots so that run off from one lot does not flow to the other; and
- d. "That the builder may have made 'significant efforts' to resolve the homeowner issues is not enough. The lots still have unresolved drainage & grading issues, both bondable items, and thus the bond should not have been approved for release. Simply constructing a development according to

approved plans is not enough since the approved plans always call for some modifications in field to suit field conditions. And, in this case, there are issues that call for the modification of the approved plans"; and

WHEREAS, at the March 25, 2004 public hearing, the Township Council rejected Resolution #2004-100 authorizing the release of the Performance Bond and Cash Bond for the Property and detailed on the record that it was rejecting said Resolution based upon the Evidence referenced above; and

WHEREAS, by rejecting Resolution #2004-100, the Township Council also rejected the Engineer's Report; and

WHEREAS, this Addendum to Resolution #2004-100 is incorporated into and made a part of Resolution #2004-100.

The following Resolution # 2004-110 (Authorizing Settlement Agreement - Kushner vs. Township of Marlboro) was introduced by reference, offered by Councilwoman Morelli, seconded by Councilman Pernice and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2004-110

A RESOLUTION AUTHORIZING THE EXECUTION OF A  
SETTLEMENT AGREEMENT IN THE MATTER OF  
KUSHNER v. THE TOWNSHIP OF MARLBORO,  
DOCKET NO. MON-C-97-02

WHEREAS, a lawsuit was filed against the Township of Marlboro captioned Kushner v. The Township of Marlboro, Docket No. MON-C-97-02, related to the Township's athletic fields located adjacent to plaintiffs' residence at 31 Willow Lane, Marlboro, New Jersey (the "Lawsuit"); and

WHEREAS, plaintiffs have proposed that the Lawsuit be settled pursuant to the terms and conditions of the attached Consent Order, which is made a part hereof; and

WHEREAS, the Township Engineer has reviewed the Consent Order and recommends that the Township agree to the terms and conditions of that Consent Order; and

WHEREAS, the Township Attorney has reviewed the Consent Order as to form and finds it to be legally acceptable; and

WHEREAS, the Township Council finds that it would be in the best interest of the Township of Marlboro to agree to the terms and conditions of the Consent Order.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Township Attorney be and hereby is authorized to execute the attached Consent Order in the matter of Kushner v. The Township of Marlboro, Docket No. MON-C-97-02, and that the Township Engineer be and hereby is authorized to take all steps necessary to comply with the terms and conditions of that Consent Order; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Lawrence B. Sachs, Attorney for Plaintiffs
- b. Township Engineer
- c. Township Administrator
- d. Gluck, Walrath and Lanciano, LLP.

The following Resolution # 2004-112 (Authorizing Contract - North American Realty) was introduced by reference, offered by Councilman Pernice, seconded by Councilman Burrows and passed on a roll call vote of 4 - 0 in favor (Absent: Denkensohn).

RESOLUTION # 2004-112

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE TOWNSHIP OF MARLBORO AND NORTH AMERICAN REALTY ADVISORY SERVICES, L.P. FOR THE PROVISION OF ENVIRONMENTAL CONSULTING SERVICES RELATED TO AN APPLICATION FOR FUNDING FOR THE MARLBORO STATE PSYCHIATRIC HOSPITAL PROPERTY

WHEREAS, the Township of Marlboro desires to obtain funding from the New Jersey Environmental Infrastructure Trust ("NJEIT") in relation to the Marlboro State Psychiatric Hospital property; and

WHEREAS, there exists a need for the Township of Marlboro to employ an environmental consultant to prepare the application for such funding and submit it to NJEIT for consideration; and

WHEREAS, the Mayor and the Township Council have deemed it necessary and in the best interest of the municipality to hire North American Realty Advisory Services, L.P. to provide the aforementioned environmental consulting services for an amount not to exceed \$10,000.00; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to entered into a contract, in a form legally acceptable to the Township Attorney and in an amount not to exceed \$10,000.00, between North American Realty Advisory Services, L.P. and the Township of Marlboro for the provision of environmental consulting services in connection with the submission of an application for funding to NJEIT for the Marlboro State Psychiatric Hospital property; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- i. North American Realty Advisory Services, L.P.
- j. Township Administrator
- k. Township Chief Financial Officer



1. Gluck, Walrath and Lanciano, LLP.

At 12:05 pm, Councilman Burrows moved that the meeting be adjourned. This was seconded by Councilman Pernice, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: April 29, 2004

OFFERED BY: Pernice

AYES: 4

SECONDED BY: Morelli

NAYS: 0

ABSENT: Denkensohn

---

ALIDA DE GAETA  
MUNICIPAL CLERK

---

JAMES MIONE  
COUNCIL PRESIDENT